

REMARKS

Favorable reconsideration of the application is respectfully requested in light of the amendments and remarks herein.

Upon entry of this amendment, claims 1 and 3-37 will be pending. By this amendment, claim 2 has been canceled and claims 1, 6-8, 11-13, 16-18, 20-22, 24-26, 28-30, 32-34, and 36-37 have been amended. No new matter has been added.

§103 Rejection of Claims 1-37

In Section 4 of the Office Action, the Examiner has rejected claims 1-37 under 35 U.S.C. §103(a) as being unpatentable over Kocher *et al.* (U.S. Patent 6,640,305; hereinafter referred to as "Kocher") in view of Tateishi (U.S. Patent 5,669,007).

In the Background section of the Specification, it was indicated that "[p]urchasers of these digital content data must pay two kinds of fees, data communication fee and content fee, separately ... However, the payment of two kinds of fees for purchased digital content data presents a problem that, for users who want to use only part of particular digital content data, the content fee setting system must be divided into segments." *Specification, page 1, lines 21-23; page 2, lines 14-18.*

The structure of the apparatus of independent claim 1, as presented herein, is designed to overcome the above-described problem by attaching cost information to the digital content data. The cost information relates to the price per unit volume of the digital content data, and includes at least one unit price of the unit data volume of digital content data. The user/purchaser can purchase a particular portion of the digital content data by paying for the number of data volumes in the particular portion. Thus, the cost of the particular portion of the digital content data can be

calculated by multiplying the unit price by the number of data volumes in the particular portion. Other independent claims 6-8, 11-13, 16-18, 20-22, 24-26, 28-30, 32-34, and 36-37 closely parallel the language that the “cost information includes at least one unit price of said unit data volume”.

Tateishi, however, teaches calculating “cost of each path on the graph created in the previous stage, and orders the paths by cost. In this stage, the technique of traveling a graph with costs to seek and display solutions described in the Patent Application Laid-Open No. 5-46590 ... may be used.” *Tateishi, column 7, lines 35-40*. According to the Abstract of the Patent Application Laid-Open No. 5-46590, the shortest cost (i.e., an optimal path) between vertices (i.e., nodes) is selected using cost calculation. Thus, Tateishi fails to teach or suggest generating cost information related to the price per unit volume of the digital content data, where the cost information includes at least one unit price of the unit data volume of digital content data.

Kocher merely discloses a digital content data distribution system without any teachings or suggestions about generating cost information related to the price per unit volume of the digital content data, where the cost information includes at least one unit price of the unit data volume of digital content data.

Based on the foregoing discussion, it is submitted that independent claims 1, 6-8, 11-13, 16-18, 20-22, 24-26, 28-30, 32-34, and 36-37 are not rendered obvious by the teachings of Kocher and Tateishi, individually or in combination. Furthermore, since claims 3-5, 9-10, 14-15, 19, 23, 27, 31, and 35, depend from independent claims 1, 8, 13, 18, 22, 26, 30, and 34, claims 3-5, 9-10, 14-15, 19, 23, 27, 31, and 35 should also be allowable. Accordingly, it is submitted that the Examiner’s rejection of claims 1-37 based upon 35 U.S.C. §103(a) has been overcome by the present remarks and withdrawal thereof is respectfully requested.

CONCLUSION

In view of the foregoing, entry of this amendment, and the allowance of this application with claims 1 and 3-37 are respectfully solicited.

In regard to the claims amended herein and throughout the prosecution of this application, it is submitted that these claims, as originally presented, were patentably distinct over the prior art of record, and that these claims were in full compliance with the requirements of 35 U.S.C. §112. Changes that have been made to these claims were not made for the purpose of patentability within the meaning of 35 U.S.C. §§101, 102, 103 or 112. Rather, these changes were made simply for clarification and to round out the scope of protection to which Applicant is entitled.

In the event that additional cooperation in this case may be helpful to complete its prosecution, the Examiner is cordially invited to contact Applicant's representative at the telephone number written below.

The Commissioner is hereby authorized to charge any insufficient fees or credit any overpayment associated with the above-identified application to Deposit Account 50-0320.

Respectfully submitted,

FROMMER LAWRENCE & HAUG LLP

By:


Samuel S. Lee, Reg. No. 42,791 for

William S. Frommer
Reg. No. 25,506
(212) 588-0800